

THE HONORABLE JOHN C. COUGHENOUR

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

MOHAMED ABDELKADIR,

Plaintiff,

v.

UNITED STATES POSTAL SERVICE, CJ
MARLEY, and TERRELL T. CARRINGTON,

Defendants.

CASE NO. C20-1725-JCC

ORDER

Before the Court is Plaintiffs' second motion for default judgment. (Dkt. No. 23). The Court has considered Plaintiff's briefing and the relevant record and hereby DENIES the motion for the reasons explained below.

Plaintiff filed his first motion for default on July 21, 2021, seeking default judgment against Defendant Carrington even though Mr. Carrington has appeared and answered in this case. (*See* Dkt. Nos. 11, 21.) The Court denied that motion because default judgment is only available against a defendant who has been properly served and who fails to appear and defend. (*See* Dkt. No. 22 (citing Fed. R. Civ. P. 55(a)). Plaintiff's second motion for default judgment is meritless for the same reason.

Plaintiff argues, however, that Mr. Carrington failed to serve his answer on Plaintiff. (Dkt. No. 23 at 1–2.) Mr. Carrington's answer, however, appends a certificate of service which

1 states that Mr. Carrington indeed served his answer on Plaintiff. (Dkt. No. 11 at 2.) Even if this
2 certification were untrue, that would not justify entering default, which the Court cannot do
3 unless a defendant fails “to plead or otherwise defend.” Fed. R. Civ. P. 55(a). Rule 55(a) says
4 nothing about service of a responsive pleading, which is governed by Rules 5 and 12 of the
5 Federal Rules of Civil Procedure.

6 Accordingly, Plaintiff’s motion (Dkt. No. 23) is DENIED with prejudice. It is further
7 ORDERED that:

8 1. The Court will not consider any further motions for default judgment in this
9 matter from Plaintiff;

10 2. Mr. Carrington must continue to comply with Rule 5(a)(1) and (b) regarding
11 service of papers on other parties;

12 The Clerk is DIRECTED to mail Plaintiff a copy of this order, which shall include a copy
13 of Mr. Carrington’s answer (Dkt. No. 11).

14
15 DATED this 7th day of September 2021.

16
17
18 

19 John C. Coughenour
20 UNITED STATES DISTRICT JUDGE
21
22
23
24
25
26